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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,107	07/31/2001	Kevin P. Headings	108.0008-00000	7691
22882	7590	03/16/2004	EXAMINER	
<b>MARTIN &amp; FERRARO, LLP</b> 1557 LAKE O'PINES STREET, NE HARTVILLE, OH 44632				BASHORE, ALAIN L
		ART UNIT		PAPER NUMBER
				3624

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/921,107	HEADINGS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Alain L. Bashore	3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 June 2002.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-31 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-31 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4</u> .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-18 recite "system" which is vague and indefinite since a system may be one of several different statutory classes of invention (including a method or an apparatus). Applicant must indicate on the record what statutory class of invention the system claims belong to. For the purposes of this examination these claims are considered method.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Claims 1-31 are rejected under 35 U.S.C. 101 as non-statutory. The method claims as presented do not claim a technological basis in the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. 101. In contrast, a method claim that includes in the body of the claim at least one structural / functional interrelationship which can only be computer implemented (and non-trivial) is considered to have a technological basis [See *Ex parte Bowman*, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) – used only for content and reasoning since not precedential].

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 5-6, 28, 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lotvin et al in view of Tai.

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Lotvin et al discloses a method for managing transactions associated with a first account and for posting a debit to a second account were a database stores information related to the first account and a processor is programmed to track credits (col 1, lines 49-67; col 2, lines 1-31). There is programmed to check the total of said credits posted to the first account and programmed to determine an amount of time elapsed (col 13, lines 44-54; col 14, lines 1-8). The processor is programmed to post a debit to the second account upon a selected interval of time elapsing (col 14, lines 1-8). The second account is a credit card account (col 14, line 1).

Lotvin et al does not disclose that the selected interval of time elapsing is further described as including since a posting was made to the second account, or that the interval of time commences from when a debit is posted to the second account.

Tai teaches the importance of time intervals regarding account postings in business (col 2, lines 35-50).

It would have been obvious to one with ordinary skill in the art to include selected interval of time elapsing since a posting was made to the second account, or that the interval of time commences from when a debit is posted to the second account because what is taught by Tai. Tai teaches obligations within agreed to time periods for buyers responsibility (col 1, lines 29-31).

It would have been obvious to one with ordinary skill in the art to include transaction suspension as claimed in claim 6 and 31 because Lotvin et al teaches no access to credits (points) if over the spending limit or outside content parameters (col 13, lines 40-53).

6. Claims 3-4, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lotvin et al in view of Tai as applied to claim 1 above, and further in view of Musmanno et al.

Lotvin et al in view of Tai does not explicitly use the term "sub-accounts".

Musmanno et al discloses sub-accounts (col 1, lines 25-67; col 2, lines 1-4).

It would have been obvious to one with ordinary skill in the art to include sub-accounts as described in claims 3-4, 29 because of what is taught by Musmanno et al. Musmanno et al teaches importance of separately managing account functions (col 1, lines 47-52).

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7. Claims 7-14, 19-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lotvin et al in view of Musmanno et al.

Lotvin et al discloses a method for controlling access to digital media content by a viewer where a database stores accounts required to access the digital media content (col 11, lines 49-64). A processor is programmed to selectively restrict access to the digital media content by said accounts according to content type, viewing times (col 11, lines 59-63; col 14, lines 41-56). The restrictions called "parameters" encompass the broadest meaning for "ratings", as presently claimed by applicant. Selected spending limits (col 13, lines 41-44) is disclosed. Reports are generated of spending habits and viewing habits (col 9, lines 5-21).

Lotvin et al further discloses creating accounts including creating a record for a primary account and obtaining information about all account holders where linked accounts are created to permit viewing of digital media content (col 7, lines 31-67; col 8, lines 1-13). A form of payment is selected, restriction and assigning identifiers (col 8, lines 53-61).

Lotvin et al not explicitly use the term "sub-accounts".

Musmanno et al discloses sub-accounts (col 1, lines 25-67; col 2, lines 1-4).

It would have been obvious to one with ordinary skill in the art to include sub-accounts as described in claims 7, 19-22 because of what is taught by Musmanno et al. Musmanno et al teaches importance of separately managing account functions (col 1, lines 47-52).

8. Claim 10 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lotvin et al in view of Musmanno et al as applied to claim 7 and 19 above and further in view of Cragun et al.

Lotvin et al in view of Musmanno et al do not explicitly disclose a system described as a “rating” system.

Cragun discloses a rating system (col 1, lines 22-42; col 6, lines 19-22).

It would have been obvious to one with ordinary skill in the art to include a rating system because Lotvin et al teaches accessibility access to media according to suitability requirements of children.

9. Claims 15, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lotvin et al in view of Gerace.

Lotvin et al discloses what is described in the previous art rejections. Lotvin et al further discloses targeted marketing (col 14, lines 46-47).

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Lotvin et al does not disclose placing each of the account holders into a group of account holders sharing at least one characteristic, said characteristic used to determine the content to deliver to the group of account holders. The characteristics include viewing habits and demographics.

Gerace discloses placing each of the account holders into a group of account holders sharing at least one characteristic, said characteristic used to determine the content to deliver to the group of account holders where the characteristics include viewing habits and demographics (col 2, lines 24-61).

It would have been obvious to one with ordinary skill in the art to include placing each of the account holders into a group of account holders sharing at least one characteristic, said characteristic used to determine the content to deliver to the group of account holders, the characteristics include viewing habits and demographics because of what is taught by Gerace. Gerace teaches value in providing information of interest to groups (col 1, lines 6-29; col 2, lines 3-42).

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lotvin et al in view of Gerace as applied to claims 15, 17-18 above, and further in view of Musmanno et al.

Lotvin et al in view of Gerace does not explicitly use the term "sub-accounts".

Musmanno et al discloses sub-accounts (col 1, lineas 25-67; col 2, lines 1-4).

It would have been obvious to one with ordinary skill in the art to include sub-accounts as described in claim 16 because of what is taught by Musmanno et al. Musmanno et al teaches importance of separately managing account functions (col 1, lines 47-52).

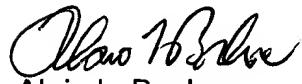
***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 703-308-1884. The examiner can normally be reached on about 7:00 am to 4:30 pm (Monday thru Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alain L. Bashore